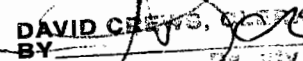


**FILED**

NOV 19 2014

DAVID CREECH, CLERK  
BY 

I offer my sincerest apologies for any errors in the formatting of the accompanying petition. Because I am not allowed ANY books of any kind, including legal books, or unable to access ANY legal reference whatsoever or any assistance at all, I've no idea what a PROPER Habeas Corpus petition to the court should actually look like, so I've nothing to model this one from.

I understand that there are some standard habeas corpus forms, but I am not allowed access to them. This is the last of my postage & paper allowed as well.

### General Overview of Argument

The SAM order was renewed citing an "FBI" threat. I have been awaiting, now into a second year, for ANY evidence of this alleged "FBI threat" cited by Attorney General, Eric Holder. There has been no evidence produced because there is none.

And because they are, by the 2014 binding plea agreement, prohibited from prosecuting me further in any way (judges ruling also), this SAM order renewal should NOT stand.

The SAM order is a means, at this point, in which Attorney General Holder is continuing to prosecute and with NO indictment or judicial or legal process. Or to extrapolate further, it is a sentence without trial or any due process at all.

They could, and seems they are, renew this order in perpetuity, preventing me from being able to appeal before the impending legal deadlines, and without cause or merit, if this Executive SAM order is allowed to stand.

The real, net effect is that this (extreme solitary confinement) amounts to sentencing to a crime, that does not exist, without a trial, a judge or even a formal allegation! If this is justice, then no man is safe. At what point must they be forced to "put up or shut up"?

Especially considering the judges ruling, executing the binding agreement of my case, precludes further prosecution.

In April, 2014, a Federal Judge (Sharon Aycock) specifically read aloud, then effected her words, "No Further Prosecution." This Attorney General is directly disobeying that judge's order, not because he should, but because no one will stop him.

In my mind, the government just nullified and made void the agreement by breaching it in this manner, ("No Further Prosecution").

By every common sense definition, this IS "Further Prosecution."

I understand common sense definitions do not always equal legal interpretations, especially when dealing with creative interpretations by overzealous, agenda driven attorneys, but when a BINDING agreement is in force, executed by the very word of a Federal Judge, there should be no room for creative interpretation, especially AFTER the execution of the document.

This is the very integrity of the system. If one party must abide by the terms, so should the other. Otherwise, there is no such thing as a contract.

It is when someone is confined and imprisoned that they need their constitutional and judicial protection the most.

Again, I apologize for any formatting issues. I am NOT allowed access to the proper forms. This is the last of my paper and postage.

✓ James Everett  
WTE:kh

The 5th Circuit Clerk, Lyle W. Cagle, in a letter dated 01/22/15, has me forwarding this petition to you.

James Everett Dutschke  
VS  
Attorney General of the United States, Eric Holder

Cause No.:

Petition of Habeas Corpus

Comes Now James Everett Dutschke, on his own behalf, to File in United States Federal Court this petition of Habeas Corpus and Praying for relief as follows:

1.

Dutschke was the subject of a Special Administrative Measures (SAM) order by Attorney General Eric Holder during the pretrial/preconviction phase of the 2013 "K.L. Letters" case, one of the several "Flin letter" cases from the Spring of 2013. The original SAM order was issued October of 2013 under the guise, according to the original memo, of "investigating a threat to the FBI", via that same memo dated on or around October 12, 2013, at the request of Bureau of Investigation agents. This "threat" was, of course, unfounded and with no basis in truth and producing no evidence whatsoever during the "investigation" period, which has now begun to enter its second year. There was no evidentiary hearing prior to the initiation of the order or any sort of judicial review, either before or since. No one ever even questioned Dutschke or any other number of credible witnesses who would have vehemently denied such a thing.

2.

Attorney General Holder issued the SAM order while Dutschke was in U.S. Marshal's custody in Oxford, MS, following, immediately, discovery by the prosecution that Dutschke had been reaching out to the media in an attempt to correct the torrent of published misinformation disseminated by the government, including attempts to contact Greta Van Susteren of Fox News and James Rosen, of the same, who himself, soon discovered Bureau of Investigation agents targeted him for criminal investigation, hoping to find something prosecutable.

3.

The SAM order was specifically written during the pretrial/preconviction phase, citing specifically, the non-existent "FBI threat", and for the U.S. Marshals. At that point of

the change of custody from the U.S. Marshals to Bureau of Prisons, June of 2014, there were but four months remaining of the original 2013 SAM order. Bureau of Prisons then "inherited" the responsibility of the remainder of the one year term, modified its custody appropriately, despite the hardships imposed on the Bureau of Prisons to maintain compliance, and awaited its expiration, which should have occurred on or around October 11<sup>th</sup>, 2014.

4.

The binding Plea agreement and Supplement, to which the government is a party, specifically states that, barring the I.R.S., there can be NO further prosecution of Dutschke by the government. This would, of course, and must include any such "threat investigation" which was, at any rate, completely unfounded. The Attorney General was NOT a party to the written, binding agreement, which was explained, very publicly by Judge Sharon Aycock, as "...your contract with the government."

5.

The Special Agent in Charge of the original SAM order, Brandon Grant, has specifically stated to Bureau of Prisons management that the FBI does NOT recommend the renewal of the SAM order, presumably to focus on ACTUAL and active investigations.

6.

In October of 2014, the SAM order was, however, renewed by Attorney General Eric Holder during his resignation period, despite that the Bureau of Investigation, or any other investigative body, did NOT want it renewed.

7.

The terms of the SAM order are so restrictive as to effectively and completely impede Dutschke's ability to work, at all, on appeals and Post Conviction Relief which are all time-barred. This includes; not allowing Dutschke access to ANY books of ANY kind or use of any legal books or references whatsoever, (Dutschke does not even have access to a bible); Denial of and access to or possession of his own casework, legal notes and discovery, some of which contains exculpatory information which will, inevitably, prove his innocence;

Denial of access to any printed law references and legal aid;

Denial of ANY communication of ANY kind, including verbal, with ANY human being whatsoever not specifically approved, every time;

Denial of any ability to contact organizations, such as The Innocence Project or even attorneys, who provide necessary legal assistance on a case as complex as this. In a practical sense, the terms of this SAM order prevents Dutschke the Fundamental Right to Due Process in even attempting to begin work on the limited appeals options within a very small, time-barred window. Appeals that were promised, albeit limited, by both the prosecution in drafting the agreement, and by a Federal Judge in a Federal Court.

8.

It is not just beyond all reasonable expectation, but completely impossible to expect any citizen to file proper appeals without any legal casework, notes, discovery, documentary evidence, assistance or access to legal assistance resources of any kind pertaining to the case nor any means whatsoever to acquire them. It is equally as absurd to expect the same within the time-barred window while disallowed everything.

9.

Dutschke has repeatedly demanded, through counsel at the time, through others post-conviction, and even in a direct 2013 letter to the judge, to see ANY such evidence of the alleged "FBI threat." Even now, into the second year, NOTHING has been produced whatsoever. Dutschke, prior to the 2014 binding plea agreement, and numerous times since, has demanded that any valid complaint be presented to Grand Jury for indictment so as to expedite any discovery and therefore the truth. No such complaint has ever been written or presented to any Grand Jury, magistrate judge or any person whatsoever. The assumption, then, must mirror the truth. No such evidence exists to present, meaning only one of three things. The investigation was in bad faith. Or, the investigation was fruitless. Or, the government believes it has real and credible evidence but, for an unknown reason, is withholding it. There simply is no fourth possibility. Dutschke believes the first, but regardless, any of the three above possibilities make extension or renewal of the SAM order an egregious act of the very kind of prosecutorial bullying the courts were designed to protect citizens against.



10.

The Attorney General's office is acting on its own in the renewal of the SAM order without the recommendation of the Bureau of Investigation, the very body that asked for it in the first place, or any investigative body, and in so doing is violating Dutschke's Constitutional protections, when most needed, including the Fundamental right to Due Process, as well as violating the binding agreement and the judges order binding the parties to the agreement.

11.

Dutschke does not dispute the Executive Branch's legal authority to supercede the judiciary to issue a SAM order on any citizen it wishes. However, Dutschke maintains that the renewal of the SAM order amounts to extrajudicial sentencing, long held to be unconstitutional. Throughout the entire process, this government has demonstrated its proclivity for denying Dutschke Due Process and shown it has seemingly unlimited power to subjugate all men. Dutschke feels that what seems to be an accepted legal power of the Executive is at odds with what is constitutional, right and just. To simplify, just because it is possible, does not mean it is just. There should be cause. It is Due Process that protects citizenry from government. No matter how the act of the renewal is excused, the real effect is that the Attorney General is "picking and choosing" who does and who does not have these rights, and when they need them the most. The Courts are the true guardians of those rights, not a term-limited, resigning political appointee. Any legitimate system cannot operate as though Due Process is a choice. It is a duty.

12.

Dutschke alleges the Attorney General originally initiated the 2013 SAM order in effort to silence and mute any attempts to reach out to the media to correct the flawed public record which was leading to false presumptions. The administration, at that specific time, was embroiled in a myriad of very public controversies involving false propaganda to the press and misuse of Executive

powers and publicly embarrassed by their failures on this very case. He alleges that, were the government to allow Dutschke to counter the purposeful misinformation with the truth to the press, that would have only further embarrassed the government at a time they were already overwhelmed by public discoveries of government overreach that were already a media frenzy during that exact time. The SAM order prevented Dutschke's ability to correct the press and allowed the government to say, unchallenged, whatever they wish and with absolute impunity. Dutschke asserts, therefore, the SAM order was, and still is, the government's attempt to silence him, not to investigate an "FBI threat", hence the total lack of credible evidence. Extreme measures (the SAM order and extreme solitary confinement), should require extraordinary cause. Extraordinary claims require extraordinary evidence. A lack of evidence SHOULD mean, legally, a lack of cause, which then should mean, of course, no renewal of the SAM order. There is a mile wide legal chasm between significant apprehension on the part of political appointees, and even law enforcement, and actual significant danger. Any renewal is based on some perceived political danger, or apprehension, not any real danger.

### 13.

Additionally, Dutschke alleges that the "eating up" of Dutschke's time-barred appeal time by the government is part of their intent of the renewal, disallowing Dutschke any possibility of causing political damage, via specific knowledge, during the waning years of the administration. Renewal now (2014) has the real effect of denying Dutschke his appeal and prevents him from communicating with the media of politically damaging information during this (fall of 2014) sensitive election period.

### 14.

In 2013, there were several "ricin letter" cases. They are, all of them, now in Bureau of Prison custody, adding to the existing score or so "ricin" cases already serving sentences, prior to 2013, for "ricin". None of the other 2013 "ricin" cases, (there were nine letters) from the same time as the K.C. letters case, have any such SAM order associated with them, despite that all six of the other letters contained much

Stronger, less vague and actual specific threatening language, unlike the vague K.C. letters. All of the other letters involved political issues and all were to elected officials including the President of the United States. The Dutschke SAM order is unique to this case, then, and for reasons completely unrelated to "ricin letters" or threats to elected officials, so any argument contending such an excuse is a non-sequiter. Additionally, the purported reason is stated in the memo as an "FBI threat."

15.

Dutschke does not dispute the potential benefit of such an order for the purposes it was, and for cases it was originally designed for: Preventing actual endangerment such as Attorney General Ashcroft's order for Al Alawi (2001). The original design of such an order is not to allay apprehension but to prevent actual endangerment, ie - an inmate coordinating with some outside members of some crime or terror network. Dutschke alleges this SAM order is another example of extreme overreach as to the original purpose for the existence of any such order is in no way applicable for undeniable reasons:

- a - The implementation of the Holder order on Dutschke was purported to be for investigating the supposed "FBI threat". An investigation that no longer exists.
- b - There exists NO terror or crime network even remotely connected to Dutschke, and all parties, including Attorney General Eric Holder, is fully aware of that.
- c - There is NO act of terrorism associated with this case. This is not just a judgement of reality and common sense, but a legal judgement as well. The very notion of terrorism was specifically struck down, and with precedent, by Judge Sharon Aycock, in Federal Court. The conviction, in fact, occurred under the HOAX clause of 175a (outlined in the sentencing guidelines) since there was no actual toxic substance of any kind associated with the KC letters.



16.

The SAM order itself prevents Dutschke from being able to attach supportive documentary evidence. Dutschke would gladly include specific documentation referred to in this petition such as; per paragraph 7a, the binding agreement and supplement which bars any further prosecution (which would obviously include any such "FBI threat") and per paragraph 15(c), a transcript of the federal hearing to validate the judge's ruling; however the SAM order has prevented Dutschke from any paperwork at all above his own case! This includes exculpatory information discovered prior to transfer to the Bureau of Prisons.

17.

The binding agreement is very specific in sentencing stating only a specified term and does not specifically state that term is to be in extreme solitary confinement. Attorney General Holder was NOT party to the binding agreement, therefore any alteration to the sentence is outside the contract and is, by definition, extra judicial sentencing or a furtherance of prosecution or both. Either way, is unconstitutional and maliciously interferes with a legally binding contract by the interjection of the most extreme form of solitary confinement possible, which would mean also, that since such a thing was not part of the signed and agreed to plea, the agreement was NOT entered into knowingly.

Such a possibility of confinement was indeed discussed, through counsel, between the agreeing parties during the drafting of the agreement. At that time, prosecutors indicated, through counsel, they did NOT recommend or have any intention of writing into the agreement any Maximum Security Confinement, which would be required to comply with a SAM order.

Dutschke, during the drafting of the agreement, was very adamant as to that point, and those concerns were addressed prior to the signing of the binding agreement.

Legal precedent has always been that an agreement between two parties cannot be altered but by the parties themselves and only prior to the execution of the agreement itself.

Attorney General Holder does not have the authority to alter the very specific binding agreement and would nullify the "know-ability" of the agreement by attempting to do so now. The act of renewing the pre-conviction SAM order does just that. A legitimate system of justice cannot maintain its integrity by allowing such "Bait and Switch" tactics.

Therefore, all of the above premises considered, James Everett Dutschke prays for the following reasonable relief:

18.

Release from or rescission of the renewed SAM order.

19.

Extension of the appeal deadline, since the Attorney General, Eric Holder, has "eaten-up" Dutschke's appeal time, which is valuable time lost in the time-barred appeal window, of at least two years, following the full relief.

20.

The immediate return of all legal notes, casework, discovery, etc. Currently held as property by the U.S. Marshals in Oxford, MS, who anticipated returning it in October, 2014; following the expiration of the original, pre-conviction SAM order.

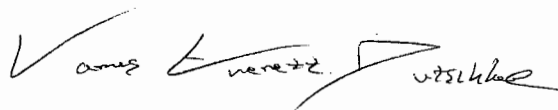
21.

Immediate reclassification of custody to the appropriate, Non-SAM order, level, so as to allow Dutschke access to all necessary legal resources and assistance for appeals. (The original 'medium' custody level, prior to the adjustment for the SAM order.)

Additionally, this renewal, this breach of the agreement creates an additional, unexpected and unwanted burden for the Bureau of Investigation and the Bureau of Prisons. The hardship suffered by Dutschke is a burden shared by both agencies by this unwanted renewal.

The renewal of the SAM order was a surprise move by the Attorney General, Holder, unexpected by the Bureau of Investigation, Bureau of Prisons, U.S. Marshals and Dutschke, all of who were anticipating its expiration.

Respectfully Submitted,  
October 31<sup>st</sup>, 2014

A handwritten signature in black ink, appearing to read "James Everett Dutschke". The signature is stylized with a large, sweeping initial "J" and "D".

James Everett Dutschke

15536-042

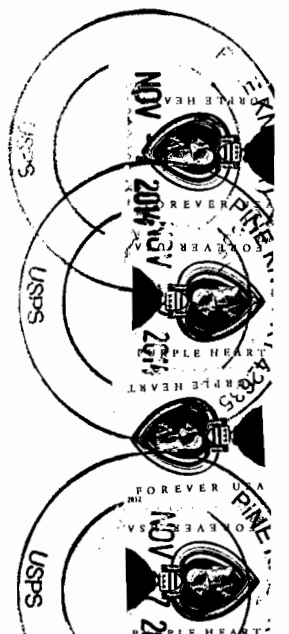
USP McCreary

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Judge Sharon Aycock

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Attention - Urgent Habeas Corpus

